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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,144

06/01/2006

Gunther Hoge

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02/26/2010

WORKMAN NYDEGGER/Leica

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EXAMINER

FETSUGA, ROBERT M

ART UNIT

PAPER NUMBER

3751

NOTIFICATION DATE

DELIVERY MODE

02/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing@WNLAW.COM

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Office Action Summary

Application No.

10/596,144

Applicant(s)

HOGE, GUNTHER

Examiner

Robert M. Metsuga

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 June 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-16 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 01 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SF/88)
Paper No(s)/Mail Date 06/01/2006, 07/25/2006 & 10/05/2006.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

1. The declaration is defective. A new declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The declaration is defective because:

The specification to which it was directed is not properly identified therein.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "floor surface" and "connected to one another so as to be foldable" feature set forth in claim 1, subject matter set forth in claim 9, and subject matter set forth in claim 12, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. Re floor surface, the instant specification is noted at page 12, lines 16-24.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be

labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "lateral walls", "firm" features and "rear wall" set forth in claim 1, subject matter set forth in claim 4, subject matter set forth in claim 5, subject matter set forth in claim 9, and subject matter set forth in claim 12, could not be found in the specification. Applicant is reminded claim terminology in mechanical cases

should appear in the descriptive portion of the specification by reference to the drawing(s).

4. Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "the firm lateral wall elements being connected to one another so as to be foldable" (lns. 4-5). This subject matter is not found in the originally filed disclosure and is therefore considered to be new matter. There is no discernable embodiment disclosed where the "wall elements" of two lateral walls are "connected to one another so as to be foldable".

5. Claims 2, 3, 6 and 14 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 2 recites "floor elements" which are "connected to one another so as to be foldable". Claims 6 and 14 recite

similar subject matter. This subject matter appears to reflect the vaguely disclosed "middle" elements (4a-4d). However, there is no apparent description in the specification teaching one how to implement such middle elements such that the floor elements 2a,2b can be both foldable, and connected to the lateral wall elements as recited in claim 1. Further in this regard, how a "case-like container", as recited in claim 3, can be formed from the middle elements where the case width in a closed condition (Fig. 6a) does not account for the accommodation of such middle elements.

6. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 8 recites a rear wall element which is "connected to the floor surface via a folding connection." Claim 15 recites similar subject matter. There is no apparent description in the specification teaching one how to implement such a rear wall element such that the floor surface is foldably connected both to the rear wall element and the lateral wall elements.

7. Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The claim recites chair elements which are "foldably, rotatably or pivotably fixed to the firm rear wall elements or to firm floor elements." There is no apparent description in the specification teaching one how to implement such chair elements such that a foldable, rotatable or pivotable connection results.

8. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "firm" wall elements. Claims 2, 6 and 14 recite a similar limitation. The term "firm" lacks description in the specification, and has many divergent meanings (firm tissue, solid, etc.). The metes and bounds of this recitation is not ascertainable.

Claim 11 is unclear as to the relationship between the "firm floor elements" on line 4 thereof, and the "floor surface" on line 2 of claim 1.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5, 7, 9, 10, 12, 13 and 16, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Hollem.

The Hollem reference discloses a sauna comprising: a floor surface including "firm", foldable (Figs. 1 and 5) elements A; two lateral walls including "firm", foldable (pg. 1 lns. 42-44) elements B (front); a flexible cover D; a rear wall including "firm", foldable (pg. 1 lns. 42-44) elements B (rear); and a

cover element C, as claimed. Re claim 9, taken at first impression, the language "can be" indicates that the "rod-like element", "holder", etc. are not set forth as part of the claimed combination, and the flexible cover of Hollem appears capable of being used as futuristically contemplated. Re claim 13, the case disclosed by Hollem (Fig. 5) is intended to receive the flexible cover (pg. 2 lns. 46-51).

11. Claims 1-5, 7, 9, 10, 12, 13 and 16, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollem and Andruss.

Re claim 1, although the lateral wall elements of the Hollem sauna may not be "firm", as claimed, attention is directed to the Andruss reference which discloses an analogous sauna which further includes lateral wall elements A,B which are "firm" (pg. 1 lns. 24-28). Therefore, in consideration of Andruss, it would have been obvious to one of ordinary skill in the sauna art to associate firmness with the Hollem lateral wall elements in order to enhance integrity.

12. Claim 11, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollem alone, or taken with Andruss, as applied to claim 1 above, and further in view of Romanoff.

The Hollem sauna further comprises chair elements E,E'.

Although the chair elements of the Hollem sauna are not "foldably, rotatably or pivotably fixed", as claimed, attention is directed to the Romanoff reference which discloses an analogous sauna which further includes chair elements 56 having a pivotal mounting 58,60 and a foldable mounting 68. Therefore, in consideration of Romanoff, it would have been obvious to one of ordinary skill in the sauna art to associate a pivotal mounting and a foldable mounting with the Hollem chair elements in order to provide automatic folding.

13. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

14. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.

/Robert M. Fetsuga/
Robert M. Fetsuga
Primary Examiner
Art Unit 3751